

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS AND INTERFERENCES
(Attorney Docket No. 14330US02)**

In the Application of:

Jeyhan Karaoguz, et al.

Serial No.: 10/675,904

Filed: September 30, 2003

For: MEDIA EXCHANGE NETWORK
WITH MEDIA GUIDE INTERFACE

Examiner: Patrick A. Ryan

Group Art Unit: 2427

Conf. No.: 6131

Electronically Filed on April 15, 2010

APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellants respectfully request that the Board of Patent Appeals and Interferences reverse the final rejection of claims 1-31 of the present application. The Appellants request a one-month extension of time in which to respond. Thus, the period for response runs until April 17, 2010.

REAL PARTY IN INTEREST
(37 C.F.R. § 41.37(c)(1)(i))

The real party in interest is Broadcom Corporation, having a place of business at 5300 California Avenue, Irvine, California 92617.

RELATED APPEALS AND INTERFERENCES
(37 C.F.R. § 41.37(c)(1)(ii))

The Appellants are unaware of any related appeals or interferences.

STATUS OF THE CLAIMS
(37 C.F.R. § 41.37(c)(1)(iii))

The present application includes claims 1-31, all of which have been rejected. Appellants identify claims 1-31 as the claims that are being appealed. The text of the pending claims is provided in the Claims Appendix.

STATUS OF AMENDMENTS
(37 C.F.R. § 41.37(c)(1)(iv))

Subsequent to the Final Office Action mailed October 30, 2009 (“Final Office Action” or “Final OA”), Appellants filed (1) a Response Under 37 C.F.R. § 1.116 on December 30, 2009 and (2) a Pre-Appeal Brief Request for Review on January 25, 2010. No claims were amended subsequent to issuance of the Final Office Action.

SUMMARY OF CLAIMED SUBJECT MATTER
(37 C.F.R. § 41.37(c)(1)(v))

Claim 1, which is representative of the independent claims, recites the following:

A method for customizing a channel interface, the method comprising:

determining¹ one or both of personal media² and/or broadcast media³ that is to be presented in a media channel;⁴

¹ See, e.g., Application, p. 19, ¶ 67, lines 1 to 7; see also *id.*, Fig. 4, Step 1.

determining a schedule for presenting said one or both of personal media and/or broadcast media in said media channel;⁵ and

presenting for displaying, at a first geographic location,⁶ said schedule comprising said one or both of personal media and/or broadcast media in a media guide,⁷ wherein said media channel may be pushed from said first geographic location to a second geographic location,⁸ wherein said media guide comprises a plurality of channels,⁹ and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location prior to pushing said media channel to said second geographic location.¹⁰

GROUND OF REJECTION TO BE REVIEWED ON APPEAL
(37 C.F.R. § 41.37(c)(1)(vi))

Claims 1-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pub. No. 2002/0104099 ("Novak") in view of U.S. 6,754,904 ("Cooper").

² See, e.g., *id.*, p. 11, ¶ 0038, line 1 to p. 12, ¶ 39, line 12; see also *id.*, Fig. 1B, refs. 105 and 106

³ See, e.g., *id.*, p. 11, ¶ 0038, line 1 to p. 12, ¶ 39, line 12; see also *id.*, Fig. 1B, refs. 107 and 108

⁴ See, e.g., *id.*, p. 11, ¶ 38, line 1 to p. 12, ¶ 39, line 12; see also *id.*, Fig. 1B, refs. 102, 103, 104, 112, 113, and 114; see also *id.*, ¶ 50, lines 1-8.

⁵ See, e.g., *id.*, p. 8, ¶ 30, lines 6-11; see also *id.*, p. 12, ¶ 0039, lines 5-12; see also *id.*, p. 12, ¶ 41, line 1 to p. 13, ¶ 42, line 2; see also *id.*, ¶ 75, lines 1-6; see also *id.*, Fig. 1B, ref. 111, and Fig. 6, ref. 604.

⁶ See, e.g., *id.*, p. 9, ¶ 31, lines 1-6; see also *id.*, Fig. 1A, ref. 3.

⁷ See, e.g., *id.*, p. 11, ¶ 38, line 1 to p. 12, ¶ 39, line 12; see also *id.*, Fig. 1B.

⁸ See, e.g., *id.*, p. 16, ¶ 52, lines 1-5; see also *id.*, p. 19, ¶ 68, lines 1-4; see also *id.*, Figs 2B and 4, Step 2.

⁹ See, e.g., *id.*, p. 12, ¶ 41, line 1 to p. 13, ¶ 41, line 2; see also *id.*, Fig. 1B, refs. 102, 103, 104, 112, 113 and 114.

¹⁰ See, e.g., *id.*, p. 9, ¶ 33, lines 1-7; see also *id.*, p. 16, ¶ 53, lines 1-8; see also *id.* p. 17, ¶ 56, lines 1-5.

ARGUMENT
(37 C.F.R. § 41.37(c)(1)(vii))

The Manual of Patent Examining Procedure (MPEP), explains the standard for establishing a *prima facie* case of obviousness as follows:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.

See MPEP at § 2142. "[T]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art." *See* MPEP at § 2143.01. Moreover, if a *prima facie* case of obviousness is not established, Appellants are under no obligation to submit evidence of nonobviousness.

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

Further "[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." *See* MPEP at § 2143.03. Additionally, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA)." *See id.*

With these principals in mind, Appellants turn to the claim rejections.

I. THE PROPOSED COMBINATION OF NOVAK AND COOPER DOES NOT RENDER THE CLAIMS UNPATENTBLE

With regard to the rejection of the claims under 35 U.S.C. § 103(a), the combination of Novak and Cooper fails to disclose or suggest the following limitations of independent claims 1, 11 and 21:

- Claims 1 and 11: “[P]resenting for displaying, at a first geographic location, said schedule comprising said one or both of personal media and/or broadcast media in a media guide, wherein said media channel may be pushed from said first geographic location to a second geographic location, wherein said media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location prior to pushing said media channel to said second geographic location.”
- Claim 21: said at least one processor causes said schedule comprising said one or both of personal media and/or broadcast media to be presented for displaying, at a first geographic location, in a media guide, wherein said media channel may be pushed from said first geographic location to a second geographic location, wherein said media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location prior to pushing said media channel to said second geographic location.

The Examiner states the following at pages 3-6 of the Final Office Action:

As the Examiner had previously presented, Novak teaches a system and method for pushing media content from a first geographic location to a second geographic location, where a set top box device (STB) can be located at each location (generally demonstrated by Novak in Figs. 1 and 11; with further reference to Office Action Page 3-4). In particular, the Examiner has addressed the claimed "first location" with Novak's Upload Source 122 and the claimed "second location" with Novak's "STB 152" (Office Action Pages 3-4). Novak clearly discloses that multiple selectable and tunable media channels are presented at STB 152 by way of (electronic program guide) EPG 153 (of Fig. 9, as described in Paragraphs [0073-0075]). Novak additionally discloses that Upload Source 122 comprise a set top box, a PC, or other access device (Paragraphs [0039, 0040, 0056]).

According to Novak, Upload Source is presented with Interface 702 of Fig. 7 for scheduling the presentation of personal media (as described in Paragraphs [0067-0068]). It is the Examiner's position that Novak's Interface 702 constitutes a "media guide" (as first stated in Claims 1, 11, and 21 of the instant application) however,

Novak does not explicitly demonstrate that this media guide comprise a plurality of channels, wherein one or more of the plurality of channels may be selected and viewed at the first geographic location (i.e. the Upload Source), as presented in Office Action Page 4. Therefore the Examiner has relied upon the Cooper reference to teach this limitation.

In a similar fashion to Novak, Cooper teaches a method and system for communicating information from a STB in a first geographic location to a STB in a second geographic location (as shown in Fig. 6 and described in Col. 4 Line 28-Col. 5 Line 33; with further reference to Office Action Pages 4-5). As demonstrated in Figure 6, each location is presented with an EPG containing multiple channels (as individually identified by channel number and name). Additionally, Cooper discloses that channels in the EPGs are selectable and viewable as presented to each location (in accordance with the method of Fig. 7, as shown in Fig. 8, and as described in Col. 5 Lines 54-Col. 6 Line 39).

The Examiner submits that the teachings of Novak and Cooper demonstrate structurally similar systems providing multi-channel EPG information to end users in accordance with similar techniques and, therefore, these similar teachings are usable together. Novak discloses a system consisting of two STBs at different geographic locations, but only teaches a multi-channel EPG being presented at one of the locations. Cooper also discloses a system consisting of two STBs at different geographic locations and additionally teaches that each STB is presented with a multichannel EPG. Therefore, the Examiner submits that Cooper demonstrates that it is well known in the art of television program distribution to present a multi-channel EPG to a user regardless of their geographic location. In addition, one of ordinary skill in the art at the time of the invention would have been motivated to modify the STB at Upload Source 122 of Novak to include the multi-channel EPG functionality of Cooper in order to provide traditional STB functions, such as broadcast television consumption, at both locations.

In view of the above teachings, the Examiner submits that the combination of Novak and Cooper teach the Claim 1, 11, and 21 limitations of:

"presenting for display, at a first geographic location, said schedule comprising said one or both of personal media and/or broadcast media in a media guide, wherein said media channel may be pushed from said first geographic location to a second geographic location, wherein said

media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location."

Regarding Applicant's newly amended limitation of selecting and viewing one or more of the plurality of channels "prior to pushing said media channel to said second location", the Examiner submits that the combination of Novak and Cooper also address this limitation. As previously presented, Novak teaches a method of pushing media from a first geographic location to a second geographic location (generally demonstrated by Novak in Figs. 1 and 11; with further reference to Office Action Page 3-4). The combination of Novak and Cooper teach the presentation of a multi-channel EPG allowing a user at the first location to select and view content (as presented above). Cooper additionally discloses the communication of information from the first geographic location to the second geographic location in the form of Message 600 (as shown in Fig. 6 and described in Col. 4 Lines 28-64). With reference to Figure 9, Cooper demonstrates that a user can receive and view a TV signal 800 prior to transmitting the outgoing message (as described in Col. 6 Lines 19-57; with further reference to the method of Fig. 10). The Examiner submits that one of ordinary skill in the art at the time of the invention would have been motivated to include Cooper's teachings of previewing content prior to transmitting an outgoing message within Novak's system for pushing media from a first to a second geographic location so that the user uploading content could review the content prior to broadcasting.

(Final OA, 3-6.)

The Appellants respectfully disagree. Even though Novak's upload source 122 may utilize an STB, the fact remains that the synthetic channel media objects (uploaded at the source 122 and seen in Fig. 7) are only accessed and displayed at the location of the STB 152, and not from the location of the upload source 122 (*see* Novak at paragraph 0063).

Even though Cooper discloses two separate locations with two separate EPGs (602a and 602b in Fig. 6), **none of Cooper's STBs (at either location 602a or 602b) can select and view a media channel (or media), prior to pushing the same media channel (or media) to the other location.** The Appellants agree (as stated by the Examiner in the above underlined

citation) that Cooper discloses the communication of information from the first geographic location to the second geographic location. However, such “communicated information” is in the form of a message 600, which only includes links (e.g., 616 and 618) that control the tuner of a set-top box (see Cooper at col. 4, lines 28-49). **The message 600 does not include media, which is displayed at the first STB location (e.g., 602a), prior to the same media being communicated for display at the second STB location (e.g., 602b).**

The Examiner states the following in the Advisory Office Action:

[1.] Novak is used to demonstrate the claimed pushing of media from a STB at a first geographic location to a STB at a second geographic location. However, **Novak does not clearly establish that a media channel can be selected and viewed at the STB of the first location** (Final Office Action Page 8).

* * *

[2.] Regarding the "prior to pushing" limitation, the Examiner has cited that Cooper demonstrates that a user can receive and view a TV Signal 800 prior to transmitting an outgoing message to a second location (Final Office Action Page 9; Cooper Col. 6 Lines 19-57). It is the Examiner's position that Novak's pushing of media and Coopers transmitting of an outgoing message analogous communications from a first location to a second location (Final Office Action Pages 9-10) and therefore maintains that the combination of Novak and Cooper teach the limitations of Claims 1, 11, and 21.

(1/12/2010 Advisory Action, continuation sheet.)

Regarding above argument (1), Appellants point out that the bolded sentence does not fully represent the deficiencies of Novak. Novak not only fails to establish that “a media channel can be selected and viewed at the STB of the first location,” it **also fails to establish that a media channel can be selected and viewed at one location prior to the same channel being pushed to another location.**

Regarding above argument (2), Appellants point out that even though Cooper discloses that a user can receive and view a TV signal 800, it is the outgoing message (and **not** the received signal 800) that is sent to another location. In addition, as discussed above, the message 600 does not include media, which is displayed at the first STB location (e.g., 602a), prior to the same media being communicated for display at the second STB location. In other words, **Cooper receives a TV signal 800 (which is displayed at the user location but it is not pushed to another location). Cooper also generates a message 600, which is sent to another location but it is not “media” that is displayed at the user location.** Therefore, under both analyses (using either the TV signal 800 or the generated message 600), Cooper does not overcome the deficiencies of Novak since it does not disclose that a channel/media can be selected and viewed at one location prior to pushing the same channel/media to another location.

To summarize, Novak does not disclose or suggest that the “media guide comprises a plurality of channels, where one or more of the plurality of channels may be selected and viewed at the first geographic location prior to pushing the selected media channel to the second geographic location,” as is required by independent claims 1, 11 and 21. The Examiner conceded this (*see, e.g.*, Final OA, p. 4, first paragraph) and relied on Cooper. However, as explained above (and in pages 15-17 of the July 1, 2009 response), Cooper does not overcome these deficiencies of Novak.

Thus for the reasons set forth above independent claims 1, 11 and 21 are patentable over Novak and Cooper. Likewise, claims 2-20, 12-20 and 22-31 each ultimately depend from one of claims 1, 11 and 21 and are therefore allowable over Novak and Cooper for the reasons discussed above.

II. CONCLUSION

Appellants respectfully submit that the pending claims of the present application should be in condition for allowance for at least the reasons discussed above, and request that the Board reverse the rejection of claims 1-31.

The Commissioner is authorized to charge the fee for this Appeal Brief (\$540), and any additional fees or credit overpayment to Deposit Account 13-0017.

Respectfully submitted,

Date: April 15, 2010

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CLAIMS APPENDIX
(37 C.F.R. § 41.37(c)(1)(viii))

1. A method for customizing a channel interface, the method comprising:
determining one or both of personal media and/or broadcast media that is to be presented in a media channel;
determining a schedule for presenting said one or both of personal media and/or broadcast media in said media channel; and
presenting for displaying, at a first geographic location, said schedule comprising said one or both of personal media and/or broadcast media in a media guide, wherein said media channel may be pushed from said first geographic location to a second geographic location, wherein said media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location prior to pushing said media channel to said second geographic location.
2. The method according to claim 1, comprising presenting said media guide comprising representations of said one or both of personal media and/or broadcast media in a graphical user interface.
3. The method according to claim 2 wherein said graphical user interface contains one or both of aural and/or visual representations comprising one or more of audio, text, video and/or graphics of said one or both of personal media and/or broadcast media.
4. The method according to claim 2, comprising controlling said graphical user interface by one or more of a keyboard, a mouse, a remote control and/or a microphone.
5. The method according to claim 1, wherein said schedule correlates a particular one of said one or both of personal media and/or broadcast media to one or more of a time, a day and/or a year for said presenting of said one or both of personal media and/or broadcast media in said media channel.

6. The method according to claim 1, comprising selecting said one or both of personal media and/or broadcast media from a list of sources.

7. The method according to claim 1, comprising displaying access and control functions for controlling said one or both of personal media and/or broadcast media from within said media guide.

8. The method according to claim 1, comprising rescheduling when said one or both of personal media and/or broadcast media is to be presented in said media channel.

9. The method according to claim 8, comprising updating one or more of a time, a day and/or a year within said media guide, when said one or both of personal media and/or broadcast media is to be presented in said media channel.

10. The method according to claim 1, comprising displaying a source of said one or both of personal media and/or broadcast media within said media guide.

11. A machine-readable storage having stored thereon, a computer program having at least one code section for customizing a channel interface, the at least one code section being executable by a machine for causing the machine to perform steps comprising:

determining one or both of personal media and/or broadcast media that is to be presented in a media channel;

determining a schedule for presenting said one or both of personal media and/or broadcast media in said media channel; and

presenting for displaying, at a first geographic location, said schedule comprising said one or both of personal media and/or broadcast media in a media guide, wherein said media channel may be pushed from said first geographic location to a second geographic location, wherein said media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location prior to pushing said media channel to said second geographic location.

12. The machine-readable storage according to claim 11, comprising code for presenting said media guide comprising representations of said one or both of personal media and/or broadcast media in a graphical user interface.

13. The machine-readable storage according to claim 12, wherein said graphical user interface contains one or both of aural and/or visual representations comprising one or more of audio, text, video and/or graphics of said one or both of personal media and/or broadcast media.

14. The machine-readable storage according to claim 12, comprising code for controlling said graphical user interface by one or more of a keyboard, a mouse, a remote control and/or a microphone.

15. The machine-readable storage according to claim 11, wherein said schedule correlates a particular one of said one or both of personal media and/or broadcast media to one or more of a time, a day and/or a year for said presenting of said one or both of personal media and/or broadcast media in said media channel.

16. The machine-readable storage according to claim 11, comprising code for selecting said one or both of personal media and/or broadcast media from a list of sources.

17. The machine-readable storage according to claim 11, comprising code that causes display of access and control functions for controlling said one or both of personal media and/or broadcast media from within said media guide.

18. The machine-readable storage according to claim 11, comprising code for rescheduling when said one or both of personal media and/or broadcast media is to be presented in said media channel.

19. The machine-readable storage according to claim 18, comprising code for updating one or more of a time, a day and/or a year within said media guide, when said one or more of personal media and/or broadcast media is to be presented in said media channel.

20. The machine-readable storage according to claim 11, comprising code that causes a source for said one or both of personal media and/or broadcast media to be displayed within said media guide.

21. A system for customizing a channel interface, the system comprising:
at least one processor that receives at least one indication of one or both of personal media and/or broadcast media that is to be presented in a media channel;
said at least one processor receives at least one indication of a schedule for presenting said one or both of personal media and/or broadcast media in said media channel; and
said at least one processor causes said schedule comprising said one or both of personal media and/or broadcast media to be presented for displaying, at a first geographic location, in a media guide, wherein said media channel may be pushed from said first geographic location to a second geographic location, wherein said media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location prior to pushing said media channel to said second geographic location.

22. The system according to claim 21, wherein said at least one processor presents said media guide comprising representations of said one or both of personal media and/or broadcast media in a graphical user interface.

23. The system according to claim 22, wherein said graphical user interface contains one or both of aural and/or visual representations comprising one or more of audio, text, video and/or graphics of said one or both of personal media and/or broadcast media.

24. The system according to claim 22, wherein said at least one processor controls said graphical user interface by one or more of a keyboard, a mouse, a remote control and/or a microphone.

25. The system according to claim 21, wherein said schedule correlates a particular one of said one or both of personal media and/or broadcast media to one or more of a time, a day

and/or a year for said presenting of said one or both of personal media and/or broadcast media in said media channel.

26. The system according to claim 21, wherein said at least one processor selects said one or both of personal media and/or broadcast media from a list of sources.

27. The system according to claim 21, wherein said at least one processor displays access and control functions for controlling said one or both of personal media and/or broadcast media from within said media guide.

28. The system according to claim 21, wherein said at least one processor reschedules when said one or both of personal media and/or broadcast media is to be presented in said media channel.

29. The system according to claim 28, wherein said at least one processor updates one or more of a time, a day and/or a year within said media guide, when said one or both of personal media and/or broadcast media is to be presented in said media channel.

30. The system according to claim 21, wherein said at least one processor causes a source of said one or both of personal media and/or broadcast media to be displayed within said media guide.

31. The system according to claim 21, wherein said at least one processor is one or more of a media processing system processor, a media management system processor, a computer processor, a media exchange software processor and/or a media peripheral processor.

EVIDENCE APPENDIX

(37 C.F.R. § 41.37(c)(1)(ix))

- U.S. Pub. No. 2002/0104099 ("Novak") entered into the record in the Office Action mailed October 17, 2007.
- U.S. 6,754,904 ("Cooper") entered into the record in the Office Action mailed September 30, 2008.

RELATED PROCEEDINGS APPENDIX
(37 C.F.R. § 41.37(c)(1)(x))

The Appellants are unaware of any related appeals or interferences.